

530

PETITION FOR A WRIT OF HABEAS CORPUS BY A PERSON IN STATE CUSTODY

1 Name Mijangos Jaime
2 (Last) (First) (Initial)

FILED

3 Prisoner Number E-81550

OCT 30 2007

4 Institutional Address P.O. Box-689, G-322L
5 Soledad, CA 93960-0689

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

6 **UNITED STATES DISTRICT COURT**
7 **NORTHERN DISTRICT OF CALIFORNIA**

8 Jaime Mijangos

9 (Enter the full name of plaintiff in this action.)

CV

07

5508

Case No.

(To be provided by the clerk of court)

10 **PETITION FOR A WRIT**
11 **OF HABEAS CORPUS**

(PR)

E-filing

12 A.P. Kane, Warden CTF, Respondent;
13 Arnold Schwarzenegger, Governor,
14 and Board of Parole Hearings,
15 Real Parties in Interest.
(Enter the full name of respondent(s) or jailor in this action)

16 **Read Comments Carefully Before Filling In**

17 **When and Where to File**

18 You should file in the Northern District if you were convicted and sentenced in one of these
19 counties: Alameda, Contra Costa, Del Norte, Humboldt, Lake, Marin, Mendocino, Monterey, Napa,
20 San Benito, Santa Clara, Santa Cruz, San Francisco, San Mateo and Sonoma. You should also file in
21 this district if you are challenging the manner in which your sentence is being executed, such as loss of
22 good time credits, and you are confined in one of these counties. Habeas L.R. 2254-3(a).

23 If you are challenging your conviction or sentence and you were not convicted and sentenced in
24 one of the above-named fifteen counties, your petition will likely be transferred to the United States
25 District Court for the district in which the state court that convicted and sentenced you is located. If
26 you are challenging the execution of your sentence and you are not in prison in one of these counties,
27 your petition will likely be transferred to the district court for the district that includes the institution
28 where you are confined. Habeas L.R. 2254-3(b).

ORIGINAL

1 Who to Name as Respondent

2 You must name the person in whose actual custody you are. This usually means the Warden or
 3 jailor. Do not name the State of California, a city, a county or the superior court of the county in which
 4 you are imprisoned or by whom you were convicted and sentenced. These are not proper
 5 respondents.

6 If you are not presently in custody pursuant to the state judgment against which you seek relief
 7 but may be subject to such custody in the future (e.g., detainees), you must name the person in whose
 8 custody you are now and the Attorney General of the state in which the judgment you seek to attack
 9 was entered.

10 A. INFORMATION ABOUT YOUR CONVICTION AND SENTENCE

11 1. What sentence are you challenging in this petition?

12 (a) Name and location of court that imposed sentence (for example; Alameda
 13 County Superior Court, Oakland):

14 Los Angeles County Superior Court, Los Angeles

Court	Location
(b) Case number, if known <u>BA019784</u>	
(c) Date and terms of sentence <u>12-27-1990, 18 years to life.</u>	
(d) Are you now in custody serving this term? (Custody means being in jail, on 19 parole or probation, etc.)	Yes <u>X</u> No _____

20 Where?

21 Name of Institution: Correctional Training Facility

22 Address: P.O. Box 686, Soledad, CA 93960-0686

23 2. For what crime were you given this sentence? (If your petition challenges a sentence for
 24 more than one crime, list each crime separately using Penal Code numbers if known. If you are
 25 challenging more than one sentence, you should file a different petition for each sentence.)

26 Penal Code Sections 187, 12022.5 and 12022.7.

27 _____
 28 _____

3. Did you have any of the following?

Arraignment: Yes No _____Preliminary Hearing: Yes No _____Motion to Suppress: Yes _____ No

4. How did you plead?

Guilty _____ Not Guilty Nolo Contendere _____

Any other plea (specify) _____

5. If you went to trial, what kind of trial did you have?

Jury _____ Judge alone Judge alone on a transcript _____6. Did you testify at your trial? Yes No _____

7. Did you have an attorney at the following proceedings:

(a) Arraignment Yes No _____(b) Preliminary hearing Yes No _____(c) Time of plea Yes No _____(d) Trial Yes No _____(e) Sentencing Yes No _____(f) Appeal Yes No _____(g) Other post-conviction proceeding Yes _____ No

8. Did you appeal your conviction? Yes _____ No _____

(a) If you did, to what court(s) did you appeal?

Court of Appeal Yes No _____Year: 1991 Result: Denied _____Supreme Court of California Yes _____ No

Year: _____ Result: _____

Any other court Yes _____ No

Year: _____ Result: _____

(b) If you appealed, were the grounds the same as those that you are raising in this

1 petition? Yes _____ No X

2 (c) Was there an opinion? Yes _____ No X

3 (d) Did you seek permission to file a late appeal under Rule 31(a)?

4 Yes _____ No X

5 If you did, give the name of the court and the result:

6 _____
7 _____

8 9. Other than appeals, have you previously filed any petitions, applications or motions with respect to
9 this conviction in any court, state or federal? Yes _____ No X

10 [Note: If you previously filed a petition for a writ of habeas corpus in federal court that
11 challenged the same conviction you are challenging now and if that petition was denied or dismissed
12 with prejudice, you must first file a motion in the United States Court of Appeals for the Ninth Circuit
13 for an order authorizing the district court to consider this petition. You may not file a second or
14 subsequent federal habeas petition without first obtaining such an order from the Ninth Circuit. 28
15 U.S.C. §§ 2244(b).] NOTE: All information hereinafter regards exhaustion of
16 petition for writ of habeas corpus challenging
09-13-05 Board of Parole Hearings denial.

17 (a) If you sought relief in any proceeding other than an appeal, answer the following
18 questions for each proceeding. Attach extra paper if you need more space.

19 I. Name of Court: Los Angeles County Superior Court

20 Type of Proceeding: Petition for Writ of Habeas Corpus

21 Grounds raised (Be brief but specific):

22 a. Petitioner filed 2 Grounds exhausting the same

23 b. 2 Grounds filed herein. See Petition herein at

24 c. page 1, footnote 1, for a synopsis of state

25 d. court exhaustion.

26 Result: Denied (Exhibit I) Date of Result: 01-30-07

27 II. Name of Court: Cal. Ct. of Appeal, 2nd App. Dist.

28 Type of Proceeding: Petition for Writ of Habeas Corpus

Grounds raised (Be brief but specific):

1 a. Petitioner filed 2 Grounds exhausting the 2
2 b. grounds filed herein.

3 c. _____
4 d. _____

5 Result: Denied (Exhibit J) Date of Result: 03-20-07

6 III. Name of Court: California Supreme Court
7 Type of Proceeding: Petition for Writ of Habeas Corpus
8 Grounds raised (Be brief but specific):

9 a. Petitioner filed 2 Grounds exhausting the 2
10 b. Grounds filed herein.
11 c. _____
12 d. _____

13 Result: Denied (Exhibit K) Date of Result: 09-19-07

14 IV. Name of Court: _____
15 Type of Proceeding: _____
16 Grounds raised (Be brief but specific):
17 a. _____
18 b. _____
19 c. _____
20 d. _____

21 Result: _____ Date of Result: _____

22 (b) Is any petition, appeal or other post-conviction proceeding now pending in any court?

23 Yes _____ No X

24 Name and location of court: _____

25 B. GROUNDS FOR RELIEF

26 State briefly every reason that you believe you are being confined unlawfully. Give facts to
27 support each claim. For example, what legal right or privilege were you denied? What happened?
28 Who made the error? Avoid legal arguments with numerous case citations. Attach extra paper if you

1 need more space. Answer the same questions for each claim.

2 [Note: You must present ALL your claims in your first federal habeas petition. Subsequent
3 petitions may be dismissed without review on the merits. 28 U.S.C. §§ 2244(b); McCleskey v. Zant,

4 499 U.S. 467, 111 S. Ct. 1454, 113 L. Ed. 2d 517 (1991).]

5 **THE PETITIONER HAS A CONSTITUTIONALLY PROTECTED LIBERTY**
6 **AMENDMENTS OF THE U.S. CONSTITUTION, THAT CAN NOT BE INFRINGED UPON BY AN**
UNCONSTITUTIONAL AND UNREVIEWABLE STATE COURT STANDARD OF LAW.

7 Supporting Facts: See Petition for Writ of Habeas Corpus pages 1-3
8 and Memorandum of Points and Authorities at pages 11-15 and
9 Ground I a pages 15-20 attached hereinafter.

10 **THE BOARD DEPRIVED PETITIONER OF HIS LIBERTY INTEREST AND DUE**
11 **PROCESS RIGHTS BY REPEATEDLY DENYING HIM PAROLE BASED ON THE**
12 **UNCHANGING FACTS OF THE COMMITMENT OFFENSE AND IGNORING THE EVIDENCE OF**
13 **HIS REHABILITATION PROGRAMMING AND CONTINUED EXEMPLARY BEHAVIOR WHILE**
14 **INCARCERATED.**

15 Supporting Facts: See Petition for Writ of Habeas Corpus pages 1-2,
16 4-10 and Memorandum of Points and Authorities at pages 11-15
17 and Ground II at pages 21-48 attached hereinafter.

18 Claim Three:

19 Supporting Facts:

20
21
22
23 If any of these grounds was not previously presented to any other court, state briefly which
24 grounds were not presented and why:

25 All 2 Grounds raised herein have been fully and timely exhausted
26 in state court(s) and are ripe for federal adjudication.

27

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